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INTERNATIONAL

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INTERNATIONAL CIVIL AVIATION ORGANIZATION (ICAO)

TWELFTH SESSION OF THE COUNCIL (JANUARY 30-APRIL 13, 1951)

ONE of the most important matters which the ICAO Council had before it for consideration when it reconvened for its twelfth session on January 30, 1951 was the draft Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface. The ICAO Legal Committee had agreed that the new draft of the revised Rome Convention, which it had prepared at its seventh session in January 1951 in Mexico City, was a final draft insofar as the Committee was concerned, but that there were certain policy and economic matters which should be examined by the Council. Accordingly the Council, during its twelfth session, directed the Secretary General to prepare an analysis of the principal advantages and disadvantages to the general public and to the international airlines which would result from adoption of the draft Convention. The Air Transport Committee was asked to review the economic aspects of the Convention, particularly those in Chapter III (Security for Operator's Liability) and Article 11 (Limits of Liability). The Council decided to circulate the draft Convention immediately to all ICAO member States but not to request their comments until its own comments were available, which should be not later than December 1951. In addition, the Council voted to submit the draft Convention to the 1952 session of the ICAO Assembly, or to a special diplomatic conference to be held about the same date, for final approval and opening for signature.

In answer to an inquiry from Pakistan, the Council rendered an advisory opinion that the provisions of Article 6 of the Chicago Convention requiring "special permission" for scheduled international air services to operate over or into the territory of another Contracting State do not override Article I, Section 1 of the International Air Services Transit Agreement, granting the right of overflight and non-traffic stop to scheduled international air services of other contracting parties. While recognizing that the granting of the privileges of transit and landing for non-traffic purposes are subject to the requirements of other provisions of the Transit Agreement, the Council decided that it was not necessary to go into the details of these requirements.

The Council on February 20 approved the draft agenda for the Fifth Session of the ICAO Assembly.¹ In accordance with a decision of the Assembly in June 1950,² this year's session will be a limited one concerning mainly budgetary and fiscal matters. The only non-administrative or non-procedural item on the provisional agenda is Item 11, Filling of the Vacancy on the Council. Since only 20 States stood for election and were elected to the Council at the Fourth Session of the Assembly and since Article 50 of the Chicago Convention requires the Assembly to fill any vacancy on the Council as soon as possible, an election will be held to fill the vacant 21st seat if there are any candidates who can satisfy the requirement for furnishing full-

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¹ Scheduled to be convened at ICAO headquarters in Montreal, June 5, 1951.

² Resolution A4-6 provides for holding a major session of the Assembly once every three years and limited sessions in the intervening years. The 1950 session of the Assembly was a major session.

time representation in Montreal.³ In addition, the Netherlands has given notice that it will attempt at the Assembly to place on the agenda an item which was turned down in the Council, Consideration of the Character and Scope of Future Sessions of the Assembly. In connection with preparations for the Assembly, the Council and its Finance Committee pared by \$154,220 the 1952 budget recommended by the Secretary General, making the total gross budget to be recommended to the Assembly \$3,341,336 and the net budget \$2,906,209, as compared with a sum of \$2,812,000 voted by the Assembly for calendar year 1951. The increase over the 1951 budget is attributable to the increased cost of the meetings program, prior commitments concerning the salaries of the Secretariat and unavoidable increases for general services resulting from price rises.

Political differences between ICAO member States in the Middle East had prevented the second ICAO Middle East Regional Air Navigation Meeting in the fall of 1950 from reaching a decision on the best location from a technical point of view for the flight information center for the newly established eastern Mediterranean flight information region. Therefore, the Council in March 1951 adopted a resolution requesting its President to make representations, at the highest level, to the States concerned in this region with a view to finding a suitable location for the center where complete flight information service would be given to all aircraft regardless of nationality, origin, or destination.

The President of the Council on April 14 signed the ICAO Headquarters Agreement with Canada, concerning the privileges and immunities to be granted the Organization by the Canadian Government. In accordance with a decision of the Council, members of the ICAO Secretariat were brought under the terms of the U.N. Joint Pension Fund as of March 1, 1951. The Council also voted to have the external audit of ICAO's books performed in the future by the Auditor General of Canada under the United Nations Joint Audit Scheme, rather than by a private firm under an independent system as in the past. The Council also approved the convening of the following ICAO meetings:

Search and Rescue Division, 3rd session, September 4, 1951, Montreal.

Legal Committee, 8th session, September 11, 1951, Montreal.

Aeronautical Maps and Charts Division, 5th session, October 9, 1951, Montreal.

South American/South Atlantic Regional Air Navigation Meeting, October 30, 1951, South America.

Facilitation Division, 3rd session, November 21, 1951, South America.

European-Mediterranean Regional Air Navigation Meeting, January 22, 1952, Paris (postponed from June 26, 1951).

Personnel Licensing Division, 4th session, February 19, 1952, Montreal.

TECHNICAL ASSISTANCE PROGRAM

In many of the underdeveloped countries of the world where physical features preclude the development of other forms of transport, air transportation is an essential prerequisite to effective economic development. ICAO has sent its first two missions abroad, one to Iran and one to Ethiopia, under the United Nations Expanded Technical Assistance Program. The 10-man mission to Iran and the 4-man mission to Ethiopia, which will aid in the development of civil aviation in those countries, consist of nationals of seven different ICAO member States who are specialists in airline operations, aircraft maintenance, aeronautical meteorology, air traffic control and aeronautical telecommunications.

³ Resolution A4-1 provides that States giving notice of their candidacy for election to the Council undertake the commitment to furnish full-time representation at ICAO headquarters.

ICAO technical assistance projects have also been approved for Colombia, Egypt, Finland, Indonesia, Iraq, Israel, Lebanon, Nicaragua, Pakistan and Thailand. Arrangements are being made for the assignment to these countries of approximately 37 experts and for the awarding of approximately 32 fellowships. Agreements must be signed with each country prior to the departure of ICAO missions. The original requests by the various countries were modified somewhat after on-the-spot investigations last winter by members of the ICAO Secretariat. In several instances modifications have been made so as to focus attention on establishment of sound national aeronautics administrations, as an initial step in the promotion of safety, regularity and efficiency of civil aviation. Advisers and missions have in some cases been substituted for fellowship awards for study abroad, as a better method of dealing with particular problems in a particular country.

Originally ICAO was allotted 1%, or \$200,000 of the \$20,000,000 pledged by fifty nations to the United Nations Special Account for Technical Assistance for Economic Development for the period ending December 31, 1951. However, in view of the many deserving requests received for technical assistance, ICAO was able to obtain an additional \$300,000 from the United Nations' own allocation of technical assistance funds. Argentina, Australia, Canada, Denmark, France, the Netherlands, India, Sweden, the United Kingdom and the United States have indicated their willingness to cooperate in the carrying out of the ICAO technical assistance program by recruiting experts for ICAO missions from among their nationals and by providing the training courses for ICAO fellows.

AIR NAVIGATION MATTERS

In line with the general shift of emphasis in ICAO's work from development of new international standards, practices, procedures, and regional plans to implementation of those already adopted, the Air Navigation Commission and the Council have been examining lists of critical deficiencies in air navigation facilities and services in the ten air navigation regions of the world. These deficiencies were selected by a working group from the total list as being those which definitely impair safety or impose operational limitations or economic burdens. As an initial step toward correction of these deficiencies, the Council has directed the Secretary General to assemble, on a priority basis, current information as to the intent of the States responsible for implementation, the nature of any difficulties they may have encountered and the ways in which such difficulties could most readily be overcome. Once this data has been collected, the Council will be in a position to consider the possible need for utilizing the ICAO technical assistance program or joint support program to remedy the deficiencies. Experience has already demonstrated that in some cases all that is needed to bring about implementation by responsible States of ICAO-recommended air navigation facilities and services is for ICAO to express an unusual interest in a particular deficiency.

On April 11, the Council adopted the thirteenth technical annex to the Chicago Convention, Standards and Recommended Practices for Aircraft Accident Investigation. The Council also adopted the following resolution dealing with the application of Annex 13 to aircraft accidents covered by Article 26 of the Chicago Convention:

"WHEREAS Article 26 of the Convention provides that a State in which an accident to an aircraft occurs within the terms of the Article, will institute an inquiry into the circumstances of the accident in accordance, insofar as its laws permit, with the procedure which may be recommended by the International Civil Aviation Organization; and

WHEREAS the Council, at its Eighteenth Meeting of its Twelfth Session, adopted Annex 13 on aircraft accident inquiry,

THE COUNCIL RECOMMENDS:

The Standards and Recommended Practices for aircraft accident inquiry contained in Annex 13 to the Convention, as the procedure to be followed by Contracting States for inquiries into accidents involving death or serious injury and instituted in accordance with the provisions of Article 26;

IT BEING UNDERSTOOD:

1. That States may, in accordance with Article 38 of the Convention, deviate from any provision of Annex 13, except that, with respect to accidents covered by terms of Article 26 of the Convention and pursuant to this Article, 'the State in which the accident occurs will institute an inquiry', 'the State in which the aircraft is registered shall be given the opportunity to appoint observers to be present at the inquiry' and 'the State holding the inquiry shall communicate the report and findings in the matter to that State'; and
2. That the procedure here recommended is not applicable when an accident to an aircraft indicates 'serious' technical defect in the aircraft or air navigation facilities', in which cases and until ICAO recommends a procedure to this effect, the inquiry shall be conducted in accordance with the national procedure of the State concerned subject to the obligations deriving from the provisions of Article 26.'

After considerable debate on the matter of language to be used in radio-telephony, the Council returned to the Air Navigation Commission for reconsideration pertinent sections of the proposed amendments to Annex 10, Standards and Recommended Practices for Aeronautical Telecommunications. The Commission completed its review of contracting States' comments on the draft Annex on Aerodromes, Air Routes and Ground Aids. The Commission also examined the report of the Fourth Session of the Rules of the Air and Air Traffic Control Division, completing its review of the amendments proposed on Annex 11, Standards and Recommended Practices for Air Traffic Services, and the rearrangement of Annex 2, Standards and Recommended Practices—Rules of the Air, and agreeing that they should be circulated to ICAO member States for comment. The Commission approved its report to the Council on amendments to Annex 3, Standards and Recommended Practices—Meteorological Codes, arising from the Third Session of the Meteorological Division.

The Council and the Air Navigation Commission reviewed the recommendations of the Special Meteorological Meetings for the African-Indian Ocean, European-Mediterranean and North Atlantic Regions, held in Paris in November and December 1950, thus bringing into effect the Regional Supplementary Procedures—Meteorology and their associated facility and service supplements at the same time as the revised Specifications for Meteorological Services for International Air Navigation. The Council also approved the Procedures for Aeronautical Information Services (AIS PANS) and the Instrument Approach-to-Land Procedures, submitted by the Air Navigation Commission. In accordance with a recommendation of the Commission, the Council abolished the Search and Rescue PANS in view of the coming into force on March 1, 1951 of Annex 12, Standards and Recommended Practices for Search and Rescue, which with one exception covers all provisions in the PANS. The Commission completed its review of the rearrangement of the Air Traffic Control PANS and agreed to their circulation to contracting States for comments.

Annex 8 sets forth international standards for ensuring airworthiness of aircraft when new but does not deal with the problem of continuing airworthiness of aircraft. Therefore, the Commission directed the Secretariat to send a letter to ICAO member States asking them to report on what they are doing to maintain airworthiness; their current procedures for exchanges of

technical reports of defects among manufacturers, operators and other States; and what part ICAO should play with regard to the problem.

AIR TRANSPORT MATTERS

The Air Transport Committee, when it reconvened for its twelfth session on February 7, 1951, appointed a small working group consisting of representatives from Brazil, Sweden, the United Kingdom, and the United States, to examine the comments of ICAO member States on the resolutions drafted a year previously concerning multiple, discriminatory and unduly burdensome taxation. In the light of these comments and other relevant material, including a study prepared by a tax consultant appointed jointly by the United Nations (UN) and ICAO Secretariats, the working group decided to recommend adoption of three resolutions in substantially the same form as originally drafted and one additional recommendation. The resolutions and recommendation call upon ICAO member States to exempt foreign airlines on a reciprocal basis from taxes on fuel, lubricants, and other consumable supplies used in international aviation and from income and property taxes; also to reduce or eliminate to the fullest possible extent taxes on the sale or use of international transport by air. The Air Transport Committee and the Council approved the resolutions and the recommendation, which when implemented will represent a substantial accomplishment by ICAO in the economic field. Members of the UN Secretariat had raised the question as to whether the resolution dealing with reciprocal exemption from income and property taxes was consistent with the tax policy of the UN. Therefore, the Council decided, before formally adopting this resolution, to refer it to the next meetings of the United Nations Fiscal Commission and the Economic and Social Council (ECOSOC), with a view to ensuring that it is not inconsistent with any action or policy adopted by those bodies. For this reason circulation of all three resolutions and the recommendation will be withheld until September 1951.

The Air Transport Committee also devoted considerable time during its twelfth session to the interrelated problems of a definition of a scheduled international air service and the rights to be conferred under Article 5 of the Chicago Convention on non-scheduled international air services.

On the basis of generally favorable reaction by ICAO member States to the tentative resolution it had formulated in the spring of 1950 on the problems of registration and certification arising from delivery of aircraft by air, the Air Transport Committee recommended that the Council request States, where necessary, to implement the resolution as fully and as soon as possible. The following is the resolution:

“WHEREAS compliance with Articles 29, 31 and 32 of the Chicago Convention gives rise to certain difficulties in the delivery of aircraft by air from the country of manufacture or last registration to a purchaser in the territory of another Contracting State, and

WHEREAS these difficulties arise from the operation of the laws of Contracting States that restrict registration of aircraft to their own nationals and the practice of some Contracting States of withholding validation of certificates of airworthiness and licenses of personnel issued by another Contracting State until the aircraft or personnel concerned are subjected to examination within their own territory;

THE COUNCIL RECOMMENDS THAT:

1. Where difficulties do arise in complying with the aforementioned articles of the Convention in the delivery by air to its territory of an aircraft purchased by one of its nationals, a Contracting State should
 - (i) accept the aircraft on its register and issue a certificate or a provisional certificate of registration to the purchaser, which certificate may be made valid exclusively for the purpose of the delivery flight, if the State so desires;

- (ii) arrange either for (a) validation of the existing certificate of airworthiness of the aircraft issued by the State of origin or last registration of the aircraft, or for (b) issue of an appropriate temporary certificate of airworthiness. Such validated or temporary certificate of airworthiness may be restricted to the purpose of the delivery flight and may be made subject to the condition, if so decided by the validating or issuing State, that no passengers or cargo shall be carried for remuneration by the aircraft during the delivery flight;
- (iii) arrange, when necessary, for the licenses of the operating crew to be validated for the purpose of the delivery flight.

(NOTE: It is suggested that a State might arrange for validation or issue of the certificates and licenses to be done either by its diplomatic or consular representative or other authorized agent in the country from which the aircraft is to be delivered.)"

The ICAO Secretariat has prepared a revised and enlarged edition of the 1949 circular "Collected Airport Tariff Scales."⁴ The new circular is entitled "Manual of Airport and Air Navigation Facility Tariffs"⁵ and contains tariff scales relating to airports in forty-two States. Statistical Summaries Nos. 12 and 13⁶ on airline taxes and subsidies for 1947 and 1948 respectively have also been issued. These summaries contain data on approximately thirty airlines in some fifteen ICAO member States. No attempt has been made to analyze the statistics, but a single conversion into U.S. dollars has been made for purposes of ready comparison. Statistical Summary No. 14,⁷ the latest in the series, shows country of origin and destination of international air passengers by airline and by country for March and September 1948. The data by country also includes figures for the same two months in 1947.

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⁴ ICAO Circular 9-AT/2.

⁵ ICAO Doc. 7100—AT/707.

⁶ ICAO Docs. 7043—AT/705 of November 1950 and 7045—AT/706 of December 1950.

⁷ ICAO Doc. 7094—AT/708 of January 1951.